



United States
Department of
Agriculture

Forest
Service

Pacific
Southwest
Region

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File Code: 1570
Appeal No.: 12-05-00-0013-A215
Date: July 26, 2012

Dick Artley
415 NE 2nd Street
Grangeville, ID 83530

CERTIFIED - RETURN
RECEIPT REQUESTED

Dear Mr. Artley:

The Forest Supervisor for the Shasta-Trinity National Forest, J. Sharon Heywood, signed the Record of Decision (ROD) approving Alternative 5 of the Algoma Vegetation Management Project Environmental Impact Statement (EIS) on April 25, 2012. The notice of the decision was published on May 4, 2012. On May 31, 2012, you filed a Notice of Appeal (NOA) pursuant to 36 CFR 215.

I have reviewed the entire appeal record, including your written Notice of Appeal (NOA), the Algoma ROD, FEIS, and the supporting documentation. I have weighed the recommendation from the Appeal Reviewing Officer and incorporated it into this decision. A copy of the Appeal Reviewing Officer's recommendation is enclosed. This letter constitutes my decision on the appeal and on the specific relief requested.

FOREST ACTION BEING APPEALED

The decision authorizes the following activities:

Thinning:

Approximately 4,670 acres of forested stands would be thinned. In general, the thinning prescriptions would retain densities recommended for ponderosa pine and mixed conifer stands (outside of sanitation areas) and a stand density index of 250 or lower, with an emphasis on leaving the healthiest dominant and co-dominant trees and removing trees from the smaller size and crown classes. Thinning activities include:

- Thinning in natural stands on approximately 2,490 acres of 50 to 85 year old mixed conifer and ponderosa pine stands to reduce ladder fuels and return stands to desired densities.
- Thinning with sanitation on approximately 930 acres of 75 year old ponderosa pine and mixed conifer stands in areas of heavy mortality from blackstain root disease. Healthy areas will be thinned; and dead, dying and infected trees will be removed from areas infected with root disease to break the cycle of re-infection.
- Single tree selection on approximately 180 acres of 50 to 75 year old ponderosa pine and mixed conifer stands to reduce stocking, treat ladder fuels and increase forest health



while enhancing stand variability. Trees will be harvested across diameter classes to reduce stand density to a level that allows for improved growth.

- Thinning in approximately 1,070 acres of 25 to 40 year old ponderosa pine plantations to reduce fuels and tree densities.
- Thinning of conifers encroaching on hardwoods. Conifers will be removed within prescribed distances from black oak, aspen, and other hardwoods in the project area.

Small diameter understory trees (4 to 9.9 inches dbh) will be thinned in all units except units 31, 33, 40, and 214. In these units, thinning of 4 to 9.9 inches dbh will not occur except within 300 feet of main roads (and along the back of the plantations that are adjacent to 40N13 and 40N13B in unit 40). The thinning prescriptions for 4 to 9.9 inch dbh trees were modified to retain more vertical structure and/or closer tree spacing for northern spotted owl (NSO) habitat needs in units 32, 42, and 247.

Fuel Treatments:

Approximately 1,300 acres of fuels in thinned stands would be treated mechanically or by prescribed fire in order to reduce fuels and reintroduce fire into the ecosystem. Additionally, a 150-foot Defensible Fuels Management Zone (DFMZ) will be established along units that border roads 40N63Y, 40N13, 40N13B, 40N11, 41N06, 39N06, 39N28Y and portions of Highway 89. The thinning and fuel prescriptions would accomplish the majority of the DFMZ establishment; in addition, all snags within the DFMZ will be removed.

Road Actions:

Road actions are planned to improve and maintain the transportation infrastructure or facilitate LSR restoration activities. Road actions include:

- Road closure to reduce open road density in the LSR to benefit wildlife and protect sensitive features on 21.7 miles (5.3 miles in Riparian Reserves);
- Road decommissioning activities to reduce road density, reduce habitat fragmentation and to restore habitat in Riparian Reserves on 10.2 miles (5.4 miles in Riparian Reserves); and
- Other connected road actions include construction of 1.3 miles of temporary roads and reconstruction of 9.9 miles of roads; general maintenance on 41 miles of roads and adding 4 miles of existing routes to the National Forest Transportation System (NFTS).

The decision includes the implementation of resource protection measures described in Chapter 2 of the FEIS that are designed to minimize, reduce, or eliminate impacts to natural and cultural resources.

APPEAL REVIEWING OFFICER'S FINDINGS and RECOMMENDATION

Documentation identified during review of the appeal demonstrated compliance with applicable laws, regulations, and policies in light of the 4 appeal issues identified in your appeal letter.

The ARO, Susan Skalski, found that the project is an appropriate and reasonable response to direction in the Shasta-Trinity National Forest Land and Resource Management Plan and is in compliance with the plan.

The purpose and need for the project were clear. The Shasta-Trinity Forest Supervisor's decision logic and rationale were clear and well documented in the Record of Decision. The Forest Supervisor was responsive to public participation, and thoroughly responded to concerns that were identified during the scoping and comment periods.

The ARO recommended affirming the Forest Supervisor's decision on all issues, and denying the requested relief.

DECISION

I agree with the ARO's analysis as presented in her recommendation letter. Many of the issues raised in your appeal letter are similar to comments made during the comment period. All appeal issues raised have been considered. I affirm the Forest Supervisor's decision to implement Alternative 5. I deny all requested relief.

The project may be implemented on, but not before, the 15th business day following the date of this letter (36 CFR 215.9(b)). My decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18(c)].

Sincerely,

/s/ Barnie T. Gyant
BARNIE T. GYANT
Deputy Regional Forester
Appeal Deciding Officer

Enclosure



File Code: 1570-1

Date: July 23, 2012

Subject: Algoma Vegetation Management Project
Appeal No: 12-05-00-0013-A215
Shasta-Trinity National Forest

To: Appeal Deciding Officer

I am the designated Appeal Reviewing Officer for this appeal. This is my recommendation on disposition of the appeal filed by Dick Artley of Grangeville, Idaho, appealing the Shasta-Trinity National Forest, Algoma Vegetation Management Project Record of Decision (ROD). The decision was signed by Forest Supervisor J. Sharon Heywood on April 25, 2012 and the legal notice of the decision was published in the Redding Record Searchlight on May 4, 2012.

DECISION BEING APPEALED

The Algoma Project was developed to reduce the likelihood of large-scale disturbance to the forested stands within the project area, and to protect and enhance conditions of late-successional forest ecosystems.

The interdisciplinary team compared the desired conditions described in the Forest Plan and the LSRA, 13 and 14 and recommendations from the Bartle and the Edson watershed analyses with the conditions in the project area and identified several resource conditions that indicated needs for change in the project area. These needs provide the basis for the proposed action. Comparing the existing conditions with the desired conditions, the following needs were identified for the project:

- There is a need to promote and/or accelerate the development of late-successional and old-growth habitat characteristics in project area stands.
- There is a need to reduce the risk of large-scale habitat loss from and increase resiliency to natural disturbances and stressors such as insects, disease, wildfire, and drought.

Existing conditions were identified by the interdisciplinary planning team from known information of the project area, field reviews, vegetation inventory data, existing resource data, and computer modeling of wildfire behavior and effects, forest stand conditions, and wildlife habitat.

The project location is on the Shasta-Trinity National Forest, Shasta-McCloud Management Unit in Siskiyou County, California. The project is about 10 miles east of the town of McCloud, California, within Township 40 North, Range 1 West and Range 1 East, Mount Diablo Meridian and Township 39 North, Range 1 West and Range 1 East, Mount Diablo Meridian. The project area lies within two fifth-field watersheds: Ash Creek and the Upper McCloud River Basin. California State Highway 89 and the McCloud River pass through the center of the project area.



in an east-west orientation. The northern boundary of the assessment area is located approximately two miles south of Black Fox Mountain and the southern boundary is located below the slopes of the Mushroom Rock – Bartle Gap Ridgeline.

The Shasta-Trinity National Forest Supervisor selected Alternative 5. She selected this alternative because it meets the purpose and need for the project, addresses aspects of public concerns and fulfills recovery actions described in the Revised Recovery Plan for the Northern Spotted Owl (2011 NSO Recovery Plan) (U.S. Fish & Wildlife Service, 2011). In brief, the selected alternative includes the following activities within the 14,780-acre project area boundary:

Thinning:

Approximately 4,670 acres of forested stands would be thinned. In general, the thinning prescriptions would retain densities recommended for ponderosa pine and mixed conifer stands (outside of sanitation areas) and a stand density index of 250 or lower, with an emphasis on leaving the healthiest dominant and co-dominant trees and removing trees from the smaller size and crown classes.

The following treatments respond to the needs highlighted in the FEIS:

- Thinning in natural stands on approximately 2,490 acres of 50 to 85 year old mixed conifer and ponderosa pine stands to reduce ladder fuels and return stands to desired densities.
- Thinning with sanitation on approximately 930 acres of 75 year old ponderosa pine and mixed conifer stands in areas of heavy mortality from blackstain root disease. Healthy areas will be thinned; and dead, dying and infected trees will be removed from areas infected with root disease to break the cycle of re-infection.
- Single tree selection on approximately 180 acres of 50 to 75 year old ponderosa pine and mixed conifer stands to reduce stocking, treat ladder fuels and increase forest health while enhancing stand variability. Trees will be harvested across diameter classes to reduce stand density to a level that allows for improved growth.
- Thinning in approximately 1,070 acres of 25 to 40 year old ponderosa pine plantations to reduce fuels and tree densities.
- Thinning of conifers encroaching on hardwoods. Conifers will be removed within prescribed distances from black oak, aspen, and other hardwoods in the project area.

Small diameter understory trees (4 to 9.9 inches dbh) will be thinned in all units except units 31, 33, 40, and 214. In these units, thinning of 4 to 9.9 inches dbh will not occur except within 300 feet of main roads (and along the back of the plantations that are adjacent to 40N13 and 40N13B in unit 40). The thinning prescriptions for 4 to 9.9 inch dbh trees were modified to retain more vertical structure and/or closer tree spacing for northern spotted owl (NSO) habitat needs in units 32, 42, and 247.

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150-foot Defensible Fuels Management Zone (DFMZ) will be established along units that border roads 40N63Y, 40N13, 40N13B, 40N11, 41N06, 39N06, 39N28Y and portions of Highway 89. The thinning and fuel prescriptions would accomplish the majority of the DFMZ establishment; in addition, all snags within the DFMZ will be removed.

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- Other connected road actions include construction of 1.3 miles of temporary roads and reconstruction of 9.9 miles of roads; general maintenance on 41 miles of roads and adding 4 miles of existing routes to the National Forest Transportation System (NFTS).

The decision includes the implementation of resource protection measures described in Chapter 2 of the FEIS that are designed to minimize, reduce, or eliminate impacts to natural and cultural resources.

APPEAL SUMMARY

The Algoma Vegetation Management Project was listed in the Schedule of Proposed Actions July 2007. The Notice of Intent (NOI) to prepare an EIS was published in the Federal Register on February 25, 2008. As part of the public involvement process, the agency published news releases in the Redding Record Searchlight on February 28, 2008 and the Mount Shasta Herald on March 5, 2008. A public meeting was held at the McCloud Ranger Station Office on March 13, 2008 to discuss the Algoma Project.

A biologist with the FWS Red Bluff Field Office visited the project area twice in June and July of 2007 and discussed the proposed actions with the interdisciplinary team. During additional consultation, Yreka FWS Field Office biologists visited the Project area in December 2011. Consultation with FWS continued through March 2012.

The Draft Environmental Impact Statement (DEIS) was published in July 2011. The Notice of Availability was published in the Federal Register on August 5, 2011. Copies of the DEIS were sent to over 36 individuals, organizations, tribes, and government agencies. The DEIS was also placed on the Shasta – Trinity National Forest web page. The Forest received comments from six individuals and/or organizations. The response to these comments is found in Appendix M of the FEIS. Dick Artley submitted timely comments to the DEIS and is eligible to appeal this decision.

The legal notice of decision was published May 4, 2012; the deadline for filing appeals was June 18, 2012. Appeal No. 1205-00-0013-A215 filed by Dick Artley was filed on May 31, 2012 and is timely.

The appellant declined to meet for informal resolution.

As relief, appellant requests that the Forest Service:

- Vacate and modify the decision so that it complies with the laws of the United States. Start the NEPA scoping process again for the new, modified EIS.
- Show that the Appeal Deciding Officer is aware of the court decision in *The Wilderness Society v. Rey* 180 F. Supp 2d 1141, 1149 (D. Mont. 2002) in which Judge Donald Molloy describes the public benefits of the Forest Service appeals process.

ISSUES AND RESPONSES

Issue 1: The Responsible Official did not take a “Hard Look” at the environmental consequences of implementing the Algoma Project.

Response:

As required by 40 CFR 1502.24, the Forest Service shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement.

As evidence of the Responsible Official’s consideration of the environmental consequences of implementing the Algoma Project she stated,

In making my decision, I considered how to best meet the purpose and need of reducing risk of large-scale habitat loss while promoting and/or accelerating development of late-successional and old-growth habitat characteristics in the project area. I considered public issues and concerns raised during scoping and the DEIS comment period. I considered comments both in support of and in opposition to project actions. My decision to select Alternative 5 is based upon a thorough review of all alternatives, the affected environment and environmental consequences presented in the FEIS and project record. In making my decision I considered project impacts on the human environment and consistency with the Forest Plan as well as goals and objectives of the Northwest Forest Plan, LSRA, 2011 NSO Recovery Plan, McCloud River Coordinated Resource Management Plan (Group, 1991), and Conservation Agreement for the Upper McCloud River Redband Trout (CA Dept. of Fish & Game, 1998). I considered opposing views, uncertainty and risk, and carefully evaluated both the benefits and costs of implementing the selected alternative. (ROD, pg. 8)

The Responsible Official also explains her consideration of the effects as described in Chapter 3 of the FEIS including effects to threatened and sensitive wildlife and fish species, effects to soils, potential introduction and spread of invasive weeds, negligible amounts of sediment displaced

from roads and culvert replacement, emission of smoke and dust and release of greenhouse gas emissions. (ROD, pg. 16)

I find that the Algoma project record indicates that the Forest took a hard look at the impacts related to Alternative 5, and that the Responsible Official appropriately expressed and summarized those efforts in the Record of Decision.

Issue 2: The Responsible Official did not respond to the responsible opposing viewpoints submitted by the appellant. This violates 40 CFR 1502.9(a) and 1502.9(b).

Response: 40 CFR 1502.9 states that:

(a) Draft environmental impact statements shall be prepared in accordance with the scope decided upon in the scoping process. The lead agency shall work with the cooperating agencies and shall obtain comments as required in Part 1503 of this chapter. The draft statement must fulfill and satisfy to the fullest extent possible the requirements established for final statements in section 102(2)(C) of the Act. If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.

(b) Final environmental impact statements shall respond to comments as required in Part 1503 of this chapter. The agency shall discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised.

The Forest reviewed 5 attachments to the appellant's comment letter that contained over 150 excerpts from numerous literature sources. The Forest completed a review of the submitted attachments and found they did not point out specific errors with or dispute over the correctness, sufficiency, scientific or factual veracity of the effects and conclusions presented in the supporting documentation and FEIS (FEIS, Appendix M, pg. 78).

The completed analyses in each resource report takes into consideration (and makes conclusions based on) the growth modeling and fuels conditions in the project area, best available science, research, site-specific conditions and monitoring information as it was available (FEIS, Appendix M, pg. 78-79).

I find that the Responsible Official appropriately addressed the information provided by the appellant.

Issue 3: The Final EIS is inadequate because it relies on unidentified methodology and poor science in contravention of NEPA. The FEIS is inadequate because the CEQ regulations specifically state: "Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements. They shall

identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement.”

Response: 40 CFR 1502.24 states,

Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement. An agency may place discussion of methodology in an appendix.

Direct, indirect, and cumulative effects on the resources affected by the Algoma Project are disclosed in Chapter 3, Affected Environment and Environmental Consequences of the FEIS (pp. 35-204). Discussions contain analysis methodologies, conclusions of effects, and rationale for the conclusions. Included are footnotes and references to reports in the appendices and the project file.

Additionally, individual specialist reports contain information about the analysis methods, spatial and temporal boundaries, terms and definitions, determinations, and literature cited. These reports are developed using professional judgment and integrity, and are available as Appendices or contained in the project file. Some examples include Biological Evaluation for Wildlife (Appendix F), Biological Assessments for Wildlife (Appendix G) and Fisheries (Appendix H), Aquatic Conservation Strategy (Appendix K). Additional references, methodologies, and analysis are included in specialist reports and analysis documents located in the project record (examples include Cultural Specialist, Transportation Resource Report, Road Analysis, Fuels Report, Hydrology Resource Report).

I find that the Forest used appropriate methodology and science to analyze impacts of the Algoma Project, and adequately referenced their sources.

Issue 4: The USFS is required to analyze the effects of their projects on climate change. This is not done in the FEIS.

Response: The appellant did not raise this concern in their comment period letter, so the Forest did not have an opportunity to directly address this concern.

The CEQ regulations at 40 CFR 1508.7 and 1508.8 and FSH 1909.15, section 15 provide direction and guidance for assessing direct, indirect, and cumulative effects. Under 40 CFR 1502.2 (b), the Forest is required to discuss and analyze significant issues and provide only enough discussion to display why additional analysis is not warranted for non-significant issues.

The FEIS (pp. 173-174), describes current and future trends related to climate change, as well as a discussion on carbon cycling. The FEIS (pgs. 178-181), describes the direct, indirect and cumulative effects of the no action and action alternatives on climate change, from climate change and on carbon cycling. In response to a concern from another commenter during the DEIS comment period, the Forest updated the Air Quality/Climate Change Report (FEIS, 173-

181) to include additional clarification on the relationship of biofuels and fossil fuels for energy generation and carbon cycling, and the effects of snag and woody debris on carbon cycling within the forest stands (FEIS, Appendix M, pp. 71-72).

I find the Forest Service adequately addressed the effects of this project on climate change and carbon cycling, and fully responded to concerns from the public.

FINDINGS

The Forest Supervisor's decision and supporting rationale are clearly presented in the Record of Decision. Her reasons for selecting Alternative 5, are logical and responsive. The purpose of the proposal as stated above is clear and the benefits are displayed.

The decision is consistent with direction contained in the Shasta-Trinity National Forest Land and Resource Management Plan.

Public participation was adequate and well documented. A Notice of Intent and Notice of Availability of the DEIS were published in the Federal Register. The project was added to the quarterly Schedule of Proposed Actions. The Forest mailed scoping letters, hosted public meetings, and distributed draft and final EISs to interested groups and individuals. The Shasta-Trinity National Forest has maintained current information on planning and activities on its web page. Responses to the comments received are detailed and included as part of the EIS. The decision of the Forest Supervisor indicates she considered and responded to public input.

RECOMMENDATION

My review was conducted pursuant to and in accordance with 36 CFR 215.19 to ensure the analysis and decision is in compliance with applicable laws, regulations, policy, and orders. I reviewed the appeal record, including the comments received from Dick Artley during the comment period and how the Forest Supervisor used this information, the appellant's objections and recommended changes.

Based on my review of the record, I recommend the Forest Supervisor's decision be affirmed on all issues. I recommend that the appellants' requested relief be denied on all issues.



Susan Skalski
Appeal Reviewing Officer
Forest Supervisor, Stanislaus National Forest